Part 135—Operating Requirements: Commuter and On-Demand Operations

This change incorporates Amendment 135–68, Revision to Minimum Altitude for the Use of an Autopilot, adopted May 9 and effective June 20, 1997. Section 135.93 is the only section affected.

Bold brackets enclose the most recently added or changed material.

Page Control Chart

Remove Pages	Dated	Insert Pages	Dated
P–849 and P–850	Ch. 12	P–849 through P–854	Ch. 13
Subpart B	Ch. 12	Subpart B	Ch. 13

Suggest filing this transmittal at the beginning of the FAR. It will provide a method for determining that all changes have been received as listed in the current edition of AC 00–44, Status of Federal Aviation Regulations, and a check for determining if the FAR contains the proper pages.

test. This addition makes explicit one kind of "comparable position involving the regular evaluation of pilots." Further, language has been added to this section explicitly stating that application for renewal must be made prior to the expiration date of a current flight instructor certificate. This always has been implied by this section.

Parts 121 and 135

§ 121.402 Training Program: Special Rules

Paragraph (a) of this section is amended by adding the word "flight" before "training, testing, and checking." Paragraph (a) was not intended to require specialized training (e.g., hazardous materials training and maintenance technician training) to be done by another certificate holder or a part 142 Training Center.

§ 121.431 Applicability

Paragraph (a)(2) is revised to change the reference from "§§ 121.411 and 121.413" to "§§ 121.411 through 121.414." Also, § 135.324 (Training Program: Special Rules) is amended by revising paragraph (b)(4) to change the reference from "§§ 135.337 or 135.339" to "§§ 135.337 through 135.340." These two sections need to be amended in order to be consistent with the June 17, 1996 Amendment Nos. 121–257 and 135–64 (61 FR 30734) that added new sections to parts 121 and 135 regarding qualifications, and initial and transition training and checking requirements for flight instructors.

Part 142

§ 142.11 Application for Issuance or Amendment

This section is amended by deleting paragraph (e)(4) and redesignating paragraph (e)(5) as paragraph (e)(4). Paragraph (e)(4), as adopted, referred to § 142.21; however, because § 142.21 was a reserved section, reference made to it under § 142.11 is erroneous.

§ 142.53 Training Center Instructor Training and Testing Requirements

This section is amended by inserting in paragraph (a)(7)(ii) the words "of a representative segment of each curriculum" This insertion is needed to preclude confusion that might result from an interpretation that instructor testing must include all maneuvers, in apparent contradiction with paragraph (a)(1), which specifies that only a representative segment of each curriculum must be checked.

Federalism Implications

The regulations do not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among various levels of government. Thus, in accordance with Executive Order 12612, it is determined that such a regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Paperwork Reduction Act

The information collection requirements associated with this rule have already been approved. There are no further paperwork requirements associated with this correction.

Good Cause Justification for Immediate Adoption

This amendment is needed to make editorial corrections and minor clarifying revisions. Because the amendment is editorial in nature and would impose no additional burden on the public, I find that notice and opportunity for public comment before adopting this amendment is unnecessary, and that good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 61, 121, 135, and 142 effective March 21, 1997.

The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

Amendment 135–68

Revision to Minimum Altitudes for the Use of an Autopilot

Adopted: May 9, 1997 **Effective: June 20, 1997**

(Published in 62 FR 27920, May 21, 1997)

SUMMARY: The Federal Aviation Administration amends the regulations governing the use of approved flight control guidance systems with automatic capability (autopilot), and would permit the use of an autopilot at altitudes less than 500 feet above ground level (AGL) during the takeoff and initial climb phases of flight. This amendment permits this use of approved autopilot systems for takeoff and initial climb phases of flight if the Administrator authorizes their use as stated in an air carrier's operations specifications. By permitting air carriers to take advantage of technological improvements in the operational capabilities of autopilot systems, safety will be enhanced by decreasing pilot workload during the critical takeoff phase of flight.

FOR FURTHER INFORMATION CONTACT: Richard A. Temple (AFS–410), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–5824.

SUPPLEMENTARY INFORMATION:

Background

The FAA is amending §§ 121.579 125.329, and 135.93 of Title 14 of the Code of Federal Regulations to permit certificate holders that operate under parts 121, 125, or 135 to obtain authorization to use an approved autopilot system for takeoff if authorized by the FAA in the certificate holders's operations specifications. Section 121.579(a) currently states that no person may use an autopilot en route, including climb and descent, at an altitude above the terrain that is less than twice the maximum altitude loss specified in the Airplane Flight Manual (AFM) for a malfunction of the autopilot under cruise conditions, or less than 500 feet, whichever is higher. Sections 125.329(a) and 135.93(a) state that no person may use an autopilot at an altitude above the terrain which is less than 500 feet or less than twice the maximum altitude loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot, whichever is higher. Paragraphs (b) and (c) in § 121.579, paragraphs (b), (c), and (d) of § 125.329, and paragraphs (b), (c), and (d) in § 135.93 provide exceptions to this restriction for the approach and landing phases of flight.

The current restrictions in the regulations regarding the use of an autopilot below 500 feet AGL have not been amended since 1965, when provisions for the landing phase of flight were incorporated into § 121.579. This change was incorporated into part 135 when § 135.93 was recodified in 1978, and into part 125 when § 125.329 was established in 1980. Although significant improvements in autopilot technology have been made, the regulations have not been amended to specifically permit the use of an autopilot system during the takeoff and initial climb phases of flight. In addition, the aviation industry

1995. Seven comments were received.

Based on autopilot technology, the expectation that technology will continue to advance, and the safety benefits that will result from using improved technology, the FAA amends the current regulations to permit authorization for the use of an autopilot during the takeoff and initial climb phases of flight; to enable parts 121, 125, and 135 operators, when authorized, to use existing technology; and to further promote technological advances while increasing the level of public safety.

The FAA and the aviation industry anticipate that further technological advances will lead to the evolution of additional autoflight guidance systems that can safely be used from initiation of takeoff roll to completion of landing.

Comments

The FAA received seven comments on the proposal. The Regional Airline Association (RAA) comments that it supports the proposal; that support is based primarily on its development and recommendation by the ARAC.

The National Air Transportation Association (NATA) comments that it supports the proposal because it allows operators to take advantage of advanced technology, thus decreasing pilot workload during a critical phase of flight. NATA also comments that it will achieve a significant increase in aviation operating safety without a corresponding increase in capital or operating expenses.

Maine Instrument Flight (MIF) supports the proposal, saying that this is a good example of how the FAA can respond to advances in technology and give regulatory relief to operators.

The Air Line Pilots Association (ALPA) also supports the proposed rule and advisory circular based on the permitted advantages of technological improvements in the operational capabilities of approved flight control guidance systems.

Boeing Commercial Airplane Group comments that it agrees with the FAA that an automatic pilot system can provide the flightcrew with work load relief during the busy takeoff and landing phases of flight. Boeing notes, however, that the NPRM addresses only a limited part of the total minimum engagement altitude issue, which is currently being addressed by the FAA/JAA/Industry All Weather Operations Harmonization Program. Boeing also sees no value in the proposed advisory circular discussed in the NPRM, commenting that existing methods of approval and use of the autopilot are adequate.

AVRO International Aerospace comments that it supports the proposal, but is concerned that it does not cover all phases of flight for which modern autopilots are being used, e.g., circling approaches. AVRO also comments that the certification procedures of 14 CFR 25.1329 must be updated since they do not specifically cover the operational changes of this proposal. AVRO notes that there is some overlap in the areas covered by the Autopilot Engagement Requirements Working Group and the All Weather Operations Working Group, and urges the FAA to coordinate within the ARAC system to determine areas of responsibility. AVRO views the proposed advisory circular as "increasing certification costs," and therefore recommends that it not be issued. AVRO also requests that commenters be given at least 30 working days to comment; they find 30 calendar days, over a holiday period, unacceptable.

The Civil Aviation Authority makes a similar comment on the abbreviated comment period. CAA commends the removal of arbitrary takeoff limitations, but also notes that this operational proposal fails to provide detailed airworthiness requirements, which it finds needs to be developed in harmonization with the JAA requirements in JAR 25.1329.

In response to Boeing, AVRO, and CAA, the FAA notes that the ARAC, in establishing the initial terms of reference for its task, focused on the takeoff phase of flight only which is addressed in this rule change. Certification issues for future autopilot systems are presently being addressed by the ICAO All Weather Operations Harmonization working group and will complement this rule change.

existing training programs and manuals to utilize the new/lower engagement altitude.

An abbreviated comment period was determined by the FAA as adequate because of previous FAA/ Industry participation and agreement through the ARAC process.

In the course of reviewing and addressing comments to the proposed minimum takeoff engagement height requirement the FAA noted that additional adjustments to the proposed provisions were necessary to properly relate these amended provisions to operational procedures and other provisions of the FAR, such as 14 CFR 121.189. Adjustments to the language of the provisions were also necessary to acknowledge that proper operational use of automatic flight guidance and control systems may sometimes require specific mode use constraints or minimum engagement altitudes above that demonstrated in the AFM. For example, because autoflight system use must be consistent with both lateral and vertical obstacle clearance requirements, and must take into account irregular terrain in the departure path, non-normal procedures for such things as engine failure, and the application of different methods for autoflight engagement height airworthiness demonstrations, it was recognized that the FAA and the operator may sometimes need to operationally specify mode use constraints or minimum engagement heights above that demonstrated and specified in the AFM. Issues such as these are typically addressed by the FAA's Flight Standardization Board (FSB) for each aircraft type, and any additional provisions for safe operational autoflight system use, if required, are identified by the FAA. Although the language in §§ 121.579(d)(2), 125.329(e)(2), and 135.93(e)(2) (redesignated in this rule as §§ 121.579(d)(3), 125.329(e)(3), and 135.93(e)(3)) was designed to address issues like the irregular terrain in the departure path, it would not have addressed some of the other issues mentioned above which warrant a higher minimum engagement height for the autopilot than specified in the AFM. Accordingly, the language of each of the provisions was modified to acknowledge this, and note that the Administrator may in certain instances find it necessary for safety to operationally specify engagement heights above or different than the minimum specified in the AFM. In view of the modifications discussed above, it was necessary to add some new language to the three sections to make it clear that engagement of the autopilot below the greater of two altitudes specified in §§ 121.579(a), 125.329(a), or 135.93(a) is only permitted if the AFM specifies a minimum engagement height. Thus, under these amendments, engagement of the autopilot is prohibited below the minimum engagement altitude specified in the AFM and may in some circumstances be prohibited below an altitude that is higher than the altitude specified in the AFM.

The Amendment

§ 121.579

Section 121.579 is amended by adding a new paragraph (d), which will allow the Administrator to issue operations specifications that establish the minimum altitude permitted to engage/use an autopilot during the takeoff and initial climb phases of flight. In addition, § 121.579(a) will be amended by striking the words ''paragraphs (b) and (c)'' and inserting the words ''paragraphs (b), (c), and (d).''

§ 125.329

Section 125.329 is amended by adding paragraph (e) to allow the Administrator to issue operations specifications that establish the minimum altitude permitted to engage/use an autopilot during the takeoff and initial climb phases of flight. In addition, § 125.329(a) is amended by striking the words ''paragraphs (b), (c), and (d)'' and inserting the words ''paragraphs (b), (c), (d), and (e).''

§ 135.93

Section 135.93 is amended by redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e) to allow the Administrator to issue operations specifications that establish the minimum altitude permitted to engage/use an autopilot during the takeoff and initial climb phases of flight. In addition, § 135.93(a) is amended by striking the words ''paragraphs (b), (c), and (d)'' and inserting the words ''paragraphs (b), (c), (d), and (e).''

Transportation Policies and Procedures (44 FR 11034; February 26, 1979) when the impact of a regulation will be minimal if adopted, a full regulatory evaluation does not need to be prepared. The following discussion provides an economic assessment of the proposal's anticipated costs and benefits.

Costs

The amendment will allow air carriers and commercial operators to seek authorization for the use of autopilot systems during the takeoff phase of flight. Because the decision whether to seek authorization for the use of autopilot is optional and voluntary, the amendment will not impose any additional costs on certificate holders that operate under parts 121, 125, or 135.

Benefits

This amendment will have positive effects on the safety of air operations. As with any change to operations specifications, the FAA reserves the right to determine whether suggested revisions to an air carrier's operations specifications meet the various criteria and guidelines that will ensure that the current level of safety is met or exceeded.

The use of the autopilot system below 500 feet AGL will enable the pilot to monitor the performance of the aircraft while performing other safety-related functions, such as scanning the outside area for other aircraft. Since less time is spent manipulating the controls, the use of the autopilot also enables the flightcrew to more readily identify any deviations from expected aircraft performance thus increasing the pilot's opportunity to quickly respond to any aircraft malfunctions. Increasing the pilot's opportunity to scan the area outside the aircraft for other airborne traffic, to detect aircraft malfunctions, and to respond more quickly to problems will increase the level of safety.

International Trade Impact Analysis

The FAA has determined that the amendments to parts 121, 125, and 135 will not have a significant impact on international trade. The amendments are expected to have no negative impact on trade opportunities for U.S. firms doing business overseas or foreign firms doing business in the United States.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to the maximum extent practicable. In reviewing the SARP for air carrier operations and JAR–OPS 1, the FAA finds that there is not a comparable rule under either ICAO standards or the JAR.

Regulatory Flexibility Determination

Congress enacted the Regulatory Flexibility Act (RFA) of 1980 (Pub. L. 96–354) to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules that may have a significant impact on a substantial number of small entities. This amendment will impose no additional costs on air carriers; therefore, it will not have a significant economic impact on small business entities.

Federalism Implications

The regulations contained herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment will not have sufficient implications to warrant the preparation of a Federalism Assessment.

In consideration of the foregoing, the Federal Aviation Administration amends parts 121, 125, and 135 of the Federal Aviation Regulations (14 CFR parts 121, 125, and 135) effective June 20, 1997.

The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

Subpart B—Flight Operations

§ 135.61 General.

This subpart prescribes rules, in addition to those in part 91 of this chapter, that apply to operations under this part.

§ 135.63 Recordkeeping requirements.

(a) Each certificate holder shall keep at its principal business office or at other places approved by the Administrator, and shall make available for inspection by the Administrator the following—

(1) The certificate holder's operating certificate;

(2) The certificate holder's operations specifications;

(3) [A current list of the aircraft used or available for use in operations under this part and the operations for which each is equipped;]

(4) An individual record of each pilot used in operations under this part, including the following information:

(i) The full name of the pilot.

(ii) The pilot certificate (by type and number) and ratings that the pilot holds.

(iii) The pilot's aeronautical experience in sufficient detail to determine the pilot's qualifications to pilot aircraft in operation under this part.

(iv) The pilot's current duties and the date of the pilot's assignment to those duties.

(v) The effective date and class of the medical certificate that the pilot holds.

(vi) The date and result of each of the initial and recurrent competency tests and proficiency and route checks required by this part and the type of aircraft flown during that test or check.

(vii) The pilot's flight time in sufficient detail to determine compliance with the flight time limitations of this part.

(viii) The pilot's check pilot authorization, if any.

(ix) Any reaction taken concerning the pilot's release from employment for physical or professional disqualification.

(x) [The date of the completion of the initial phase and each recurrent phase of the training required by this part; and

[(5) An individual record for each flight attendant who is required under this part, maintained in sufficient detail to determine compliance with the applicable portions of § 135.273 of this part.]

(b) [Each certificate holder must keep each record required by paragraph (a)(3) of this section for at least 6 months, and must keep each record required by paragraphs (a)(4) and (a)(5) of this section for at least 12 months.]

(c) For multiengine aircraft, each certificate holder is responsible for the preparation and accuracy of a load manifest in duplicate containing information concerning the loading of the aircraft. The manifest must be prepared before each takeoff and must include—

(1) The number of passengers;

(2) The total weight of the loaded aircraft;

(3) The maximum allowable takeoff weight for that flight;

(4) The center of gravity limits;

(5) The center of gravity of the loaded aircraft, except that the actual center of gravity need not be computed if the aircraft is loaded according to a loading schedule or other approved method that ensures that the center of gravity of the loaded aircraft is within approved limits. In those cases, an entry shall be made on the manifest indicating that the center of gravity is within limits according to a loading schedule or other approved method;

(6) The registration number of the aircraft or flight number;

(7) The origin and destination; and

(8) Identification of crewmembers and their crew position assignments.

(d) The pilot in command of the aircraft for which a load manifest must be prepared shall carry a copy of the completed load manifest in the aircraft to its destination. The certificate holder shall keep copies of completed load manifest for at least 30 days at its principal operations base, or at

conduct intrastate operations for compensation or hire.

[Each commercial operator who conducts intrastate operations for compensation or hire shall keep a copy of each written contract under which it provides services as a commercial operator for a period of at least one year after the date of execution of the contract. In the case of an oral contract, it shall keep a memorandum stating its elements, and of any amendments to it, for a period of at least one year after the execution of that contract or change.]

(Amdt. 135–58, Eff. 1/19/96); (Amdt. 135–65, Eff. 7/15/96); [(Amdt. 135–66, Eff. 3/12/97)]

§ 135.65 Reporting mechanical irregularities.

(a) Each certificate holder shall provide an aircraft maintenance log to be carried on board each aircraft for recording or deferring mechanical irregularities and their correction.

(b) The pilot in command shall enter or have entered in the aircraft maintenance log each mechanical irregularity that comes to the pilot's attention during flight time. Before each flight, the pilot in command shall, if the pilot does not already know, determine the status of each irregularity entered in the maintenance log at the end of the preceding flight.

(c) Each person who takes corrective action or defers action concerning a reported or observed failure or malfunction of an airframe, powerplant, propeller, rotor, or appliance, shall record the action taken in the aircraft maintenance log under the applicable maintenance requirements of this chapter.

(d) Each certificate holder shall establish a procedure for keeping copies of the aircraft maintenance log required by this section in the aircraft for access by appropriate personnel and shall include that procedure in the manual required by § 135.21.

§ 135.67 Reporting potentially hazardous meteorological conditions and irregularities of communications or navigation facilities.

Whenever a pilot encounters a potentially hazardous meteorological condition or an irregularity in a ground communications or navigational facility

§ 135.69 Restriction or suspension of operations: Continuation of flight in an emergency.

(a) During operations under this part, if a certificate holder or pilot in command knows of conditions, including airport and runway conditions, that are a hazard to safe operations, the certificate holder or pilot in command, as the case may be, shall restrict or suspend operations as necessary until those conditions are corrected.

(b) No pilot in command may allow a flight to continue toward any airport of intended landing under the conditions set forth in paragraph (a) of this section, unless in the opinion of the pilot in command, the conditions that are a hazard to safe operations may reasonably be expected to be corrected by the estimated time of arrival or, unless there is no safer procedure. In the latter event, the continuation toward that airport is an emergency situation under § 135.19.

§ 135.71 Airworthiness check.

The pilot in command may not begin a flight unless the pilot determines that the airworthiness inspections required by § 91.409 of this chapter, or § 135.419, whichever is applicable, have been made.

(Amdt. 135–32, Eff. 8/18/90)

§ 135.73 Inspections and tests.

Each certificate holder and each person employed by the certificate holder shall allow the Administrator, at any time or place, to make inspections or tests (including en route inspections) to determine the holder's compliance with the Federal Aviation Act of 1958, applicable regulations, and the certificate holder's operating certificate, and operations specifications.

§ 135.75 Inspectors credentials: Admission to pilots' compartment: Forward observer's seat.

(a) Whenever, in performing the duties of conducting an inspection, an FAA inspector presents an Aviation Safety Inspector credential, FAA Form 110A, to the pilot in command of an aircraft

(b) A forward observer's seat on the flight deck, or forward passenger seat with headset or speaker must be provided for use by the Administrator while conducting en route inspections. The suitability of the location of the seat and the headset or speaker for use in conducting en route inspections is determined by the Administrator.

§ 135.77 Responsibility for operational control.

Each certificate holder is responsible for operational control and shall list, in the manual required by § 135.21, the name and title of each person authorized by it to exercise operational control.

§ 135.79 Flight locating requirements.

(a) Each certificate holder must have procedures established for locating each flight, for which an FAA flight plan is not filed, that—

(1) Provide the certificate holder with at least the information required to be included in a VFR flight plan;

(2) Provide for timely notification of an FAA facility or search and rescue facility, if an aircraft is overdue or missing; and

(3) Provide the certificate holder with the location, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where communications cannot be maintained.

(b) Flight locating information shall be retained at the certificate holder's principal place of business, or at other places designated by the certificate holder in the flight locating procedures, until the completion of the flight.

(c) Each certificate holder shall furnish the representative of the Administrator assigned to it with a copy of its flight locating procedures and any changes or additions, unless those procedures are included in a manual required under this part.

§ 135.81 Informing personnel of operational information and appropriate changes.

Each certificate holder shall inform each person in its employment of the operations specifications that apply to that person's duties and responsibilities that contains the same information.

(b) This part and part 91 of this chapter.

(c) Aircraft Equipment Manuals, and Aircraft Flight Manual or equivalent.

(d) For foreign operations, the International Flight Information Manual or a commercial publication that contains the same information concerning the pertinent operational and entry requirements of the foreign country or countries involved.

§ 135.83 Operating information required.

(a) The operator of an aircraft must provide the following materials, in current and appropriate form, accessible to the pilot at the pilot station, and the pilot shall use them:

(1) A cockpit checklist.

(2) For multiengine aircraft or for aircraft with retractable landing gear, an emergency cockpit checklist containing the procedures required by paragraph (c) of this section, as appropriate.

(3) Pertinent aeronautical charts.

(4) For IFR operations, each pertinent navigational en route, terminal area, and approach and letdown chart.

(5) For multiengine aircraft, one-engine-inoperative climb performance data and if the aircraft is approved for use in IFR or over-the-top operations, that data must be sufficient to enable the pilot to determine compliance with § 135.181(a)(2).

(b) Each cockpit checklist required by paragraph (a)(1) of this section must contain the following procedures:

(1) Before starting engines;

(2) Before takeoff;

(3) Cruise;

(4) Before landing;

(5) After landing;

(6) Stopping engines.

(c) Each emergency cockpit checklist required by paragraph (a)(2) of this section must contain the following procedures as appropriate:

(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.

(2) Emergency operation of instruments and controls.

(3) Engine inoperative procedures.

The following persons may be carried aboard an aircraft without complying with the passenger-carrying requirements of this part:

(a) A crewmember or other employee of the certificate holder.

(b) A person necessary for the safe handling of animals on the aircraft.

(c) A person necessary for the safe handling of hazardous materials (as defined in Subchapter C of Title 49 CFR).

(d) A person performing duty as a security or honor guard accompanying a shipment made by or under the authority of the U.S. Government.

(e) A military courier or a military route supervisor carried by a military cargo contract, air carrier or commercial operator in operations under a military cargo contract, if that carriage is specifically authorized by the appropriate military service.

(f) An authorized representative of the Administrator conducting an en route inspection.

(g) A person, authorized by the Administrator, who is performing a duty connected with a cargo operation of the certificate holder.

§ 135.87 Carriage of cargo including carry-on baggage.

No person may carry cargo, including carry-on baggage, in or on any aircraft unless—

(a) It is carried in an approved cargo rack, bin, or compartment installed in or on the aircraft;

(b) It is secured by an approved means; or

(c) It is carried in accordance with each of the following:

(1) For cargo, it is properly secured by a safety belt or other tie-down having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions, or for carry-on baggage, it is restrained so as to prevent its movement during air turbulence.

(2) It is packaged or covered to avoid possible injury to occupants.

(3) It does not impose any load on seats or on the floor structure that exceeds the load limitation for those components.

(4) It is not located in a position that obstructs the access to, or use of, any required emergency or regular exit, or the use of the aisle between pants.

(6) It is stowed in compliance with this section for takeoff and landing.

(7) For cargo only operations, paragraph (c)(4) of this section does not apply if the cargo is loaded so that at least one emergency or regular exit is available to provide all occupants of the aircraft a means of unobstructed exit from the aircraft if an emergency occurs.

(d) Each passenger seat under which baggage is stowed shall be fitted with a means to prevent articles of baggage stowed under it from sliding under crash impacts severe enough to induce the ultimate inertia forces specified in the emergency landing condition regulations under which the aircraft was type certificated.

(e) When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded so as to allow a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher

§ 135.89 Pilot requirements: Use of oxygen.

(a) *Unpressurized aircraft.* Each pilot of an unpressurized aircraft shall use oxygen continuously when flying

(1) At altitudes above 10,000 feet through 12,000 feet MSL for that part of the flight at those altitudes that is of more than 30 minutes duration; and

(2) Above 12,000 feet MSL.

(b) *Pressurized aircraft.*

(1) Whenever a pressurized aircraft is operated with the cabin pressure altitude more than 10,000 feet MSL, each pilot shall comply with paragraph (a) of this section.

(2) Whenever a pressurized aircraft is operated at altitudes above 25,000 feet through 35,000 feet MSL unless each pilot has an approved quick-donning type oxygen mask—

(i) At least one pilot at the controls shall wear, secured and sealed, an oxygen mask that either supplies oxygen at all times or automatically supplies oxygen whenever the cabin pressure altitude exceeds 12,000 feet MSL; and

at altitudes above 35,000 feet MSL, at least one pilot at the controls shall wear, secured and sealed, an oxygen mask required by paragraph (2)(i) of this paragraph.

(4) If one pilot leaves a pilot duty station of an aircraft when operating at altitudes above 25,000 feet MSL, the remaining pilot at the controls shall put on and use an approved oxygen mask until the other pilot returns to the pilot duty station of the aircraft.

§ 135.91 Oxygen for medical use by passengers.

(a) Except as provided in Paragraphs (d) and (e) of this section, no certificate holder may allow the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless the unit to be carried is constructed so that all valves, fittings, and gauges are protected from damage during that carriage or operation and unless the following conditions are met—

(1) The equipment must be—

(i) Of an approved type or in conformity with the manufacturing, packaging, marking, labeling and maintenance requirements of Title 49 CFR parts 171, 172, and 173, except § 173.24(a)(1);

(ii) When owned by the certificate holder, maintained under the certificate holder's approved maintenance program;

(iii) Free of flammable contaminants on all exterior surfaces; and

(iv) Appropriately secured.

(2) When the oxygen is stored in the form of a liquid, the equipment must have been under the certificate holder's approved maintenance program since its purchase new or since the storage container was last purged.

(3) When the oxygen is stored in the form of a compressed gas as defined in Title 49 CFR § 173.300(a)—

(i) When owned by the certificate holder, it must be maintained under its approved maintenance program; and

(ii) The pressure in any oxygen cylinder must not exceed the rated cylinder pressure.

passenger compartment.

(b) No person may smoke and no certificate holder may allow any person to smoke within 10 feet of oxygen storage and dispensing equipment carried under paragraph (a) of this section.

(c) No certificate holder may allow any person other than a person trained in the use of medical oxygen equipment to connect or disconnect oxygen bottles or any other ancillary component while any passenger is aboard the aircraft.

(d) Paragraph (a)(1)(i) of this section does not apply when that equipment is furnished by a professional or medical emergency service for use on board an aircraft in a medical emergency when no other practical means of transportation (including any other properly equipped certificate holder) is reasonably available and the person carried under the medical emergency is accompanied by a person trained in the use of medical oxygen.

(e) Each certificate holder who, under the authority of paragraph (d) of this section, deviates from paragraph (a)(1)(i) of this section under a medical emergency shall, within 10 days, excluding Saturdays, Sundays, and Federal holidays, after the deviation, send to the [certificate-holding district office] a complete report of the operation involved, including a description of the deviation and the reasons for it.

[(Amdt. 135–60, Eff. 2/26/96)]

§ 135.93 Autopilot: Minimum altitudes for use.

(a) Except as provided in [paragraphs (b), (c), (d), and (e)] of this section, no person may use an autopilot at an altitude above the terrain which is less than 500 feet or less than twice the maximum altitude loss specified in the approved Aircraft Flight Manual or equivalent for a malfunction of the autopilot, whichever is higher.

(b) When using an instrument approach facility other than ILS, no person may use an autopilot at an altitude above the terrain that is less than 50 feet below the approved minimum descent altitude for that procedure, or less than twice the maximum loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot under approach conditions, whichever is higher.

in the approved Airplane Flight Manual or equivalent for the malfunction of the autopilot with approach coupler, whichever is higher.

(d) Without regard to paragraph (a), (b), or (c) of this section, the Administrator may issue operations specifications to allow the use, to touchdown, of an approved flight control guidance system with automatic capability, if—

(1) The system does not contain any altitude loss (above zero) specified in the approved Aircraft Flight Manual or equivalent for malfunction of the autopilot with approach coupler; and

(2) The Administrator finds that the use of the system to touchdown will not otherwise adversely affect the safety standards of this section.

[(e) Notwithstanding paragraph (a) of this section, the Administrator issues operations specifications to allow the use of an approved autopilot system with automatic capability during the takeoff and initial climb phase of flight provided:

[(1) The Airplane Flight Manual specifies a minimum altitude engagement certification restriction,

[(2) The system is not engaged prior to the minimum engagement certification restriction specified in the Airplane Flight Manual, or an altitude specified by the Administrator, whichever is higher, and

[(3) The Administrator finds that the use of the system will not otherwise affect the safety standards required by this section.]

([f]) This section does not apply to the operations conducted in rotorcraft.

(Amdt. 135–32, Eff. 8/18/90); [(Amdt. 135–68, Eff. 6/20/97)]

§ 135.95 Airmen: Limitations on use of services.

No certificate holder may use the services of any person as a airman unless the person performing those services—

(a) Holds an appropriate and current airman certificate; and

(b) Is qualified, under this chapter, for the operation for which the person is to be used.

§ 135.99 Composition of flight crew.

(a) No certificate holder may operate an aircraft with less than the minimum flight crew specified in the aircraft operating limitations or the Aircraft Flight Manual for that aircraft and required by this part for the kind of operation being conducted.

(b) No certificate holder may operate an aircraft without a second in command if that aircraft has a passenger seating configuration, excluding any pilot seat, of ten seats or more.

§ 135.100 Flight crewmember duties.

(a) No certificate holder shall require, nor may any flight crewmember perform, any duties during a critical phase of flight except those duties required for the safe operation of the aircraft. Duties such as company required calls made for such nonsafety related purposes as ordering galley supplies and confirming passenger connections, announcements made to passengers promoting the air carrier or pointing out sights of interest, and filling out company payroll and related records are not required for the safe operation of the aircraft.

(b) No flight crewmember may engage in, nor may any pilot in command permit, any activity during a critical phase of flight which could distract any flight crewmember from the performance of his or her duties or which could interfere in any way with the proper conduct of those duties. Activities such as eating meals, engaging in nonessential conversations within the cockpit and nonessential communications between the cabin and cockpit crews, and reading publications not related to the proper conduct of the flight are not required for the safe operation of the aircraft.

(c) For the purposes of this section, critical phases of flight includes all ground operations involving taxi, takeoff and landing, and all other flight operations conducted below 10,000 feet, except cruise flight.

NOTE: Taxi is defined as "movement of an airplane under its own power on the surface of an airport."

(Amdt. 135–11, Eff. 5/18/81); (Amdt. 135–14, Eff. 6/18/81); (Amdt. 135–15, Eff. 6/11/81)

§ 135.103 Exception to second-in-command requirement: IFR operations.

The pilot in command of an aircraft carrying passengers may conduct IFR operations without a second in command under the following conditions:

(a) A takeoff may be conducted under IFR conditions if the weather reports or forecasts, or any combination of them, indicate that the weather along the planned route of flight allows flight under VFR within 15 minutes flying time, at normal cruise speed, from the takeoff airport.

(b) En route IFR may be conducted if unforecast weather conditions below the VFR minimums of this chapter are encountered on a flight that was planned to be conducted under VFR.

(c) An IFR approach may be conducted if, upon arrival at the destination airport, unforecast weather conditions do not allow an approach to be completed under VFR.

(d) When IFR operations are conducted under this section:

(1) The aircraft must be properly equipped for IFR operations under this part.

(2) The pilot must be authorized to conduct IFR operations under this part.

(3) The flight must be conducted in accordance with an ATC IFR clearance.

IFR operations without a second in command may not be conducted under this section in an aircraft requiring a second in command under § 135.99.

§ 135.105 Exception to second-in-command requirement: Approval for use of autopilot system.

(a) Except as provided in §§ 135.99 and 135.111, unless two pilots are required by this chapter for operations under VFR, a person may operate an aircraft without a second in command, if it is equipped with an operative approved autopilot system and the use of that system is authorized by appropriate operations specifications. No certificate holder may use any person, nor may any person serve, as a pilot in command under this section of an aircraft operated [in a commuter operation, as defined in part 119 of this chapter] unless that person has at least 100 hours pilot-in-command

(c) The Administrator issues an amendment to the operations specifications authorizing the use of an autopilot system, in place of a second in command, if—

(1) The autopilot is capable of operating the aircraft controls to maintain flight and maneuver it about the three axes; and

(2) The certificate holder shows, to the satisfaction of the Administrator, that operations using the autopilot system can be conducted safely and in compliance with this part.

The amendment contains any conditions or limitations on the use of the autopilot system that the Administrator determines are needed in the interest of safety.

(Amdt. 135–3, Eff. 3/1/80); [(Amdt. 135–58, Eff. 1/19/96)]

§ 135.107 Flight attendant crewmember requirement.

No certificate holder may operate an aircraft that has a passenger seating configuration, excluding any pilot seat, of more than 19 unless there is a flight attendant crewmember on board the aircraft.

§ 135.109 Pilot in command or second in command: Designation required.

(a) Each certificate holder shall designate a—

(1) Pilot in command for each flight; and

(2) Second in command for each flight requiring two pilots.

(b) The pilot in command, as designated by the certificate holder, shall remain the pilot in command at all times during the flight.

§ 135.111 Second in command required in Category II operations.

No person may operate an aircraft in a Category II operation unless there is a second in command of the aircraft.

§ 135.113 Passenger occupancy of pilot seat.

No certificate holder may operate an aircraft type certificate after October 15, 1971, that has a pas-

Postal Service occupies a pilot seat.

§ 135.115 Manipulation of controls.

No pilot in command may allow any person to manipulate the flight controls of an aircraft during flight conducted under this part, nor may any person manipulate the controls during such flight unless that person is—

(a) A pilot employed by the certificate holder and qualified in the airfcraft; or

(b) An authorized safety representative of the Administrator who has the permission of the pilot in command, is qualified in the aircraft, and is checking flight operations.

§ 135.117 Briefing of passengers before flight.

(a) Before each takeoff each pilot in command of an aircraft carrying passengers shall ensure that all passengers have been orally briefed on—

(1) Smoking. [Each passenger shall be briefed on when, where, and under what conditions smoking is prohibited (including, but not limited to, any applicable requirements of part 252 of this title). This briefing shall include a statement that the Federal Aviation Regulations require passenger compliance with the lighted passenger information signs (if such signs are required), posted placards, areas designated for safety purposes as no smoking areas, and crewmember instructions with regard to these items. The briefing shall also include a statement (if the aircraft is equipped with a lavatory) that Federal law prohibits: tampering with, disabling, or destroying any smoke detector installed in an aircraft lavatory; smoking in lavatories; and, when applicable, smoking in passenger compartments.

(2) [The use of safety belts, including instructions on how to fasten and unfasten the safety belts. Each passenger shall be briefed on when, where, and under what conditions the safety belt must be fastened about that passenger. This briefing shall include a statement that the Federal Aviation Regulations require passenger compliance with lighted passenger information signs and

(5) Location of survival equipment;

(6) If the flight involves extended overwater operation, ditching procedures and the use of required flotation equipment;

(7) If the flight involves operations above 12,000 feet MSL, the normal and emergency use of oxygen; and

(8) Location and operation of fire extinguishers.

(b) Before each takeoff the pilot in command shall ensure that each person who may need the assistance of another person to move expeditiously to an exit if an emergency occurs and that person's attendant, if any, has received a briefing as to the procedures to be followed if an evacuation occurs. This paragraph does not apply to a person who has been given a briefing before a previous leg of a flight in the same aircraft.

(c) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a crewmember.

(d) Notwithstanding the provisions of paragraph (c) of this section, for aircraft certificated to carry 19 passengers or less, the oral briefing required by paragraph (a) of this section shall be given by the pilot in command, a crewmember, or other qualified person designated by the certificate holder and approved by the Administrator.

(e) The oral briefing required by paragraph (a) shall be supplemented by printed cards which must be carried in the aircraft in locations convenient for the use of each passenger.

The cards must—

(1) Be appropriate for the aircraft on which they are to be used;

(2) Contain a diagram of, and method of operating, the emergency exits; and

(3) Contain other instructions necessary for the use of emergency equipment on board the aircraft.

(f) The briefing required by paragraph (a) may be delivered by means of an approved recording playback device that is audible to each passenger under normal noise levels.

(Amdt. 135–20, Eff. 1/6/87); (Amdt. 135–25, Eff. 4/23/88); [(Amdt. 135–44, Eff. 10/15/92)]

apply to—

(a) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or

(b) Crewmembers and other persons authorized by the certificate holder to carry arms.

§ 135.121 Alcoholic beverages.

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

§ 135.122 Stowage of food, beverage, and passenger service equipment during aircraft movement on the surface, takeoff, and landing.

[(a) No certificate holder may move an aircraft on the surface, take off, or land when any food, beverage, or tableware furnished by the certificate holder is located at any passenger seat.

[(b) No certificate holder may move an aircraft on the surface, take off, or land unless each food and beverage tray and seat back tray table is secured in its stowed position.

[(c) No certificate holder may permit an aircraft to move on the surface, take off, or land unless each passenger serving cart is secured in its stowed position.

[(d) Each passenger shall comply with instructions given by a crewmember with regard to compliance with this system.]

[(Amdt. 135–44, Eff. 10/15/92)]

§ 135.123 Emergency and emergency evacuation duties.

(a) Each certificate holder shall assign to each required crewmember for each type of aircraft as appropriate, the necessary functions to be performed in an emergency or in a situation requiring emergency evacuation. The certificate holder shall ensure

(b) The certificate holder shall describe in the manual required under § 135.21 the functions of each category of required crewmembers assigned under paragraph (a) of this section.

§ 135.125 Airplane security.

Certificate holders conducting operations under this part shall comply with the applicable security requirements in part 108 of this chapter.

(Amdt. 135–9, Eff. 12/1/80); (Amdt. 135–10, Eff. 4/1/81)

§ 135.127 Passenger information.

(a) No person may conduct a scheduled flight segment on which smoking is prohibited unless the "No Smoking" passenger information signs are lighted during the entire flight segment, or one or more "No Smoking" placards meeting the requirements of § 25.1541 are posted during the entire flight segment. If both the lighted signs and the placards are used, the signs must remain lighted during the entire flight segment.

Smoking is prohibited on scheduled flight segments—

(1) Between any two points within Puerto Rico, the United States Virgin Islands, the District of Columbia, or any State of the United States (other than Alaska or Hawaii) or between any two points in any one of the above-mentioned jurisdictions (other than Alaska or Hawaii);

(2) Within the State of Alaska or within the State of Hawaii; or

(3) Scheduled in the current Worldwide or North American Edition of the *Official Airline Guide* or 6 hours or less in duration and between any point listed in paragraph (a)(1) of this section and any point in Alaska or Hawaii, or between any point in Alaska and any point in Hawaii.

(b) No person may smoke while a "No Smoking" sign is lighted or while "No Smoking" placards are posted, except that the pilot in command may authorize smoking on the flight deck (if it is physically separated from the passenger compartment) except during any movement of an aircraft on the surface, takeoff, and landing.

to $2,000 for tampering with the smoke detector installed in this lavatory.''

(e) No person may tamper with, disable, or destroy any smoke detector installed in any aircraft lavatory.

(f) On flight segments other than those described in paragraph (a) of this section, the ''No Smoking'' sign required by § 135.177(a)(3) of this part must be turned on during any movement of the aircraft on the surface, for each takeoff or landing, and at any other time considered necessary by the pilot in command.

(g) The passenger information requirements prescribed in § 91.517(b) and (d) of this chapter are in addition to the requirements prescribed in this section.

(h) Each passenger shall comply with instructions given him or her by crewmembers regarding compliance with paragraphs (b), (c), and (e) of this section.

(Amdt. 135–25, Eff. 4/23/88); (Amdt. 135–35, Eff. 2/25/90); (Amdt. 135–44, Eff. 10/15/92); [(Amdt. 135–60, Eff. 2/26/96)]

§ 135.128 Use of safety belts and child restraint systems.

(a) Except as provided in this paragraph, each person on board an aircraft operated under this part shall occupy an approved seat or berth with a separate safety belt properly secured about him or her during movement on the surface, takeoff, and landing. For seaplane and float equipped rotorcraft operations during movement on the surface, the person pushing off the seaplane or rotorcraft from the dock and the person mooring the seaplane or rotorcraft at the dock are excepted from the preceding seating and safety belt requirements. A safety belt provided for the occupant of a seat may not be used by more than one person who has reached his or her second birthday. Notwithstanding the preceding requirements, a child may:

(1) [Be held by an adult who is occupying an approved seat or berth, provided the child has not reached his or her second birthday and the child does not occupy or use any restraining device; or]

(2) Notwithstanding any other requirement of this chapter, occupy an approved child restraint

the child during the flight;

(ii) [Except as provided in paragraph (a)(2)(ii)(D) of this section, the approved child restraint system bears one or more labels as follows:]

(A) Seats manufactured to U.S. standards between January 1, 1981, and February 25, 1985, must bear the label: ''This child restraint system conforms to all applicable Federal motor vehicle safety standards.''

(B) Seats manufactured to U.S. standards on or after February 26, 1985, must bear two labels:

(1) ''This child restraint system conforms to all applicable Federal motor vehicle safety standards''; and

(2) ''THIS RESTRAINT IS CERTIFIED FOR USE IN MOTOR VEHICLES AND AIRCRAFT'' in red lettering;

(C) Seats that do not qualify under paragraphs (a)(2)(ii)(A) and (a)(2)(ii)(B) of this section must bear either a label showing approval of a foreign government or a label showing that the seat was manufactured under the standards of the United Nations;

[(D) Notwithstanding any other provision of this section, booster-type child restraint systems (as defined in Federal Motor Vehicle Standard No. 213 (49 CFR § 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and]

(iii) The certificate holder complies with the following requirements:

(A) The restraint system must be properly secured to an approved forward-facing seat or berth;

(B) The child must be properly secured in the restraint system and must not exceed the specified weight limit for the restraint system; and

(C) The restraint system must bear the appropriate label(s).

(b) [Except as provided in paragraph (b)(3), the following prohibitions apply to certificate holders:

of this section, no certificate holder may prohibit a child, if requested by the child's parent, guardian, or designated attendant, from occupying a child restraint system furnished by the child's parent, guardian, or designated attendant provided:

[(i) The child holds a ticket for an approved seat or berth or such seat or berth is otherwise made available by the certificate holder for the child's use;

[(ii) The requirements of paragraph (a)(2)(i) are met;

[(iii) The requirements of (a)(2)(iii) are met; and

[(iv) The child restraint system has one or more of the labels described in paragraph (a)(2)(ii)(A) through paragraph (a)(2)(ii)(C).

[(3) This section does not prohibit the certificate holder from providing child restraint systems authorized by this or, consistent with safe operating practices, determining the most appropriate passenger seat location for the child restraint system.]

(Amdt. 135–44, Eff. 10/15/92); [(Amdt. 135–62, Eff. 9/3/96)]

§ 135.129 Exit seating.

(a)(1) *Applicability.* This section applies to all certificate holders operating under this part, except for on-demand operations with aircraft having 19 or fewer passenger seats and commuter operations with aircraft having 9 or fewer passenger seats.

(2) *Duty to make determination of suitability.* Each certificate holder shall determine, to the extent necessary to perform the applicable functions of paragraph (d) of this section, the suitability of each person it permits to occupy an exit seat. For the purpose of this section—

(i) *Exit seat means*—

(A) Each seat having direct access to an exit; and

(B) Each seat in a row of seats through which passengers would have to pass to gain access to an exit, from the first seat inboard of the exit to the first aisle inboard of the exit.

graph in a non-discriminatory manner consistent with the requirements of this section, by persons designated in the certificate holder's required operations manual.

(4) *Submission of designation for approval.* Each certificate holder shall designate the exit seats for each passenger seating configuration in its fleet in accordance with the definitions in this paragraph and submit those designations for approval as part of the procedures required to be submitted for approval under paragraphs (n) and (p) of this section.

(b) No certificate holder may seat a person in a seat affected by this section if the certificate holder determines that it is likely that the person would be unable to perform one or more of the applicable functions listed in paragraph (d) of this section because—

(1) The person lacks sufficient mobility, strength, or dexterity in both arms and hands, and both legs:

(i) To reach upward, sideways, and downward to the location of emergency exit and exit-slide operating mechanisms;

(ii) To grasp and push, pull, turn, or otherwise manipulate those mechanisms;

(iii) To push, shove, pull, or otherwise open emergency exits;

(iv) To lift out, hold, deposit on nearby seats, or maneuver over the seatbacks to the next row objects the size and weight of over-wing window exit doors;

(v) To remove obstructions of size and weight similar over-wing exit doors;

(vi) To reach the emergency exit expeditiously;

(vii) To maintain balance while removing obstructions;

(viii) To exit expeditiously;

(ix) To stabilize an escape slide after deployment; or

(x) To assist others in getting off an escape slide;

(2) The person is less than 15 years of age or lacks the capacity to perform one or more of the applicable functions listed in paragraph

(4) The person lacks sufficient visual capacity to perform one or more of the applicable functions in paragraph (d) of this section without the assistance of visual aids beyond contact lenses or eyeglasses;

(5) The person lacks sufficient aural capacity to hear and understand instructions shouted by flight attendants, without assistance beyond a hearing aid;

(6) The person lacks the ability adequately to impart information orally to other passengers; or,

(7) The person has:

(i) A condition or responsibilities, such as caring for small children, that might prevent the person from performing one or more of the applicable functions listed in paragraph (d) of this section; or

(ii) A condition that might cause the person harm if he or she performs one or more of the applicable functions listed in paragraph (d) of this section.

(c) Each passenger shall comply with instructions given by a crewmember or other authorized employee of the certificate holder implementing exit seating restrictions established in accordance with this section.

(d) Each certificate holder shall include on passenger information cards, presented in the language in which briefings and oral commands are given by the crew, at each exit seat affected by this section, information that, in the event of an emergency in which a crewmember is not available to assist, a passenger occupying an exit seat may use if called upon to perform the following functions:

(1) Locate the emergency exit;

(2) Recognize the emergency exit opening mechanism;

(3) Comprehend the instructions for operating the emergency exit;

(4) Operate the emergency exit;

(5) Assess whether opening the emergency exit will increase the hazards to which passengers may be exposed;

(6) Follow oral directions and hand signals given by a crewmember;

(7) Stow or secure the emergency exit door so that it will not impede use of the exit;

(10) Assess, select, and follow a safe path away from the emergency exit.

(e) Each certificate holder shall include on passenger information cards, at each exit seat—

(1) In the primary language in which emergency commands are given by the crew, the selection criteria set forth in paragraph (b) of this section, and a request that a passenger identify himself or herself to allow reseating if he or she—

(i) Cannot meet the selection criteria set forth in paragraph (b) of this section;

(ii) Has a nondiscernible condition that will prevent him or her from performing the applicable functions listed in paragraph (d) of this section;

(iii) May suffer bodily harm as the result of performing one or more of those functions; or

(iv) Does not wish to perform those functions; and,

(2) In each language used by the certificate holder for passenger information cards, a request that a passenger identify himself or herself to allow reseating if he or she lacks the ability to read, speak, or understand the language or the graphic form in which instructions required by this section and related to emergency evacuation are provided by the certificate holder, or the ability to understand the specified language in which crew commands will be given in an emergency;

(3) May suffer bodily harm as the result of performing one or more of those functions; or,

(4) Does not wish to perform those functions.

A certificate holder shall not require the passenger to disclose his or her reason for needing reseating.

(f) Each certificate holder shall make available for inspection by the public at all passenger loading gates and ticket counters at each airport where it conducts passenger operations, written procedures established for making determinations in regard to exit row seating.

(g) No certificate holder may allow taxi or pushback unless at least one required crewmember has verified that no exit seat is occupied by a person the crewmember determines is likely to be

and the functions to be performed, set forth in paragraph (d) of this section.

(i) Each certificate holder shall include in its passenger briefings a request that a passenger identify himself or herself to allow reseating if he or she—

(1) Cannot meet the selection criteria set forth in paragraph (b) of this section;

(2) Has a nondiscernible condition that will prevent him or her from performing the applicable functions listed in paragraph (d) of this section;

(3) May suffer bodily harm as the result of performing one or more of those functions; or,

(4) Does not wish to perform those functions.

A certificate holder shall not require the passenger to disclose his or her reason for needing reseating.

(j) Removed and Reserved

(k) In the event a certificate holder determines in accordance with this section that it is likely that a passenger assigned to an exit seat would be unable to perform the functions listed in paragraph (d) of this section or a passenger requests a non-exit seat, the certificate holder shall expeditiously relocate the passenger to a non-exit seat.

(l) In the event of full booking in the non-exit seats and if necessary to accommodate a passenger being relocated from an exit seat, the certificate holder shall move a passenger who is willing and able to assume the evacuation functions that may be required, to an exit seat.

(m) A certificate holder may deny transportation to any passenger under this section only because—

(1) The passenger refuses to comply with instructions given by a crewmember or other

(n) In order to comply with this section certificate holders shall—

(1) Establish procedures that address:

(i) The criteria listed in paragraph (b) of this section;

(ii) The functions listed in paragraph (d) of this section;

(iii) The requirements for airport information, passenger information cards, crewmember verification of appropriate seating in exit seats, passenger briefings, seat assignments, and denial of transportation as set forth in this section;

(iv) How to resolve disputes arising from implementation of this section, including identification of the certificate holder employee on the airport to whom complaints should be addressed for resolution; and,

(2) Submit their procedures for preliminary review and approval to the principal operations inspectors assigned to them at the [certificate-holding district office.]

(o) Certificate holders shall assign seats prior to boarding consistent with the criteria listed in paragraph (b) and the functions listed in paragraph (d) of this section, to the maximum extent feasible.

(p) The procedures required by paragraph (n) of this section will not become effective until final approval is granted by the Director, Flight Standards Service, Washington, DC Approval will be based solely upon the safety aspects of the certificate holder's procedures.

(Amdt. 135–36, Eff. 4/5/90); (Amdt. 135–45, Eff. 10/27/92); (Amdt. 135–50, Eff. 7/29/94); [(Amdt. 135–60, Eff. 2/26/96)]